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UNITED STATES DISTRICT COURT

DISTRICT OF OREGON

RICHARD E. HOWE and
MARIAN L. HOWE

Case No.
CV '06

360

10

Plaintiffs,

COMPLAINT

v.

Unfair Debt Collection Practices;
Violation of 15 USC §1692 (FDCPA)

STEWART, SOKOL & GRAY, LLC,
an Oregon limited liability company,
JEFFREY B. WILKINSON, ESQ
MATTHEW A. WAND, ESQ
TYLER STORTI, ESQ
JOHN SPENCER STEWART, ESQ
JAN D. SOKOL, ESQ
ARNOLD D. GRAY, ESQ
SUSAN Z. WHITNEY, ESQ
H. LEE COOK, ESQ
THOMAS A. LARKIN, ESQ

Defendants,

PRELIMINARY STATEMENT

1. This is an action for money damages brought by consumers pursuant to the Fair Debt Collection Practices Act (“*FDCPA*”), 15 U.S.C. §1692, *et seq*, which prohibits abusive, deceptive and unfair debt collection practices.
2. Plaintiff’s claims arise from defendants’ attempts to collect a debt in Oregon through means and instrumentalities of interstate commerce and the mails.

JURISDICTION

3. Jurisdiction for federal claims arises under 15 U.S.C. §1692k(d).
4. Venue is proper in this judicial district under 28 U.S.C. 1391(b).
5. Jurisdiction for supplemental state claims exists under 28 U.S.C. §1367(a).

PARTIES

6. Plaintiffs are natural persons residing in Clackamas County, Oregon, and consumers.
7. Defendant Stewart, Sokol & Gray, LLC, is an Oregon limited liability company formed under the laws of Oregon; carrying on, conducting and transacting business in Oregon and a debt collector (“*SS&G*”).
8. Defendant Jeffrey B. Wilkinson, Esq, is an individual, a resident of Oregon, an active member of the Oregon State Bar, a member of SS&G, an employee of SS&G acting within the scope of his employment and a debt collector (“*Wilkinson*”).
9. Defendant Matthew A. Wand, Esq, is an individual, a resident of Oregon, an active member of the Oregon State Bar, a member of SS&G, an employee of SS&G acting within the scope of his employment and a debt collector (“*Wand*”).

10. Defendant Tyler Storti, Esq, is an individual, a resident of Oregon, an active member of the Oregon State Bar, an employee of SS&G acting within the scope of his employment and a debt collector (*"Storti"*).
11. Defendant Jan D. Sokol, Esq, is an individual, a resident of Oregon, an active member of the Oregon State Bar, a member of SS&G, an employee of SS&G acting within the scope of his employment and a debt collector (*"Sokol"*).
12. Defendant John Spencer Stewart, Esq, is an individual, a resident of Oregon, an active member of the Oregon State Bar, a member of SS&G, an employee of SS&G acting within the scope of his employment and a debt collector (*"Stewart"*).
13. Defendant Arnold D. Gray, Esq, is an individual, a resident of Oregon, an active member of the Oregon State Bar, a member of SS&G, an employee of SS&G acting within the scope of his employment and a debt collector (*"Gray"*).
14. Defendant Susan Z. Whitney, Esq, is an individual, a resident of Oregon, an active member of the Oregon State Bar, a member of SS&G, an employee of SS&G acting within the scope of her employment and a debt collector (*"Whitney"*).
15. Defendant H. Lee Cook, Esq, is an individual, a resident of Oregon, an active member of the Oregon State Bar, a member of SS&G, an employee of SS&G acting within the scope of his employment and a debt collector (*"Cook"*).
16. Defendant Thomas A. Larkin, Esq, is an individual, a resident of Oregon, an active member of the Oregon State Bar, a member of SS&G, an employee of SS&G acting within the scope of his employment and a debt collector (*"Larkin"*).

IV. FACTUAL ALLEGATIONS

17. Fireside Bank is an out of state state bank carrying on, conducting and transacting business in Oregon without a certificate of authority, without being registered in Oregon and without authority to transact business in Oregon.
18. On or before March 15, 2005, plaintiffs were obligated for consumer debt on an account maintained by Fireside Bank (*"the debt"*).
19. On or after March 15, 2005, defendants sent plaintiffs the collection letter which is attached and incorporated by reference.
20. On and after March 23, 2005, plaintiffs disputed the debt in writing, requested verification of the debt and requested the name and address of the original creditor.
21. On and after March 30, 2005, defendants made false, deceptive and misleading representations of the amount and legal status of the debt.
22. On June 3, 2005, defendants commenced a legal action against plaintiffs in the Circuit Court of the State of Oregon.
23. Defendants made false, deceptive and misleading allegations in the legal action in connection with the attempted collection of the debt.

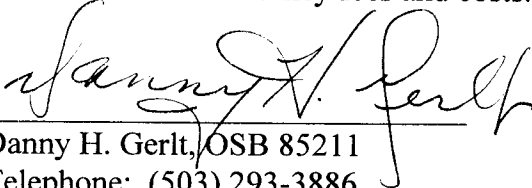
FIRST CLAIM FOR RELIEF

24. Paragraphs 1 through 23 are re-alleged and incorporated by reference.
25. Within the year next preceding filing of the complaint and in connection with collection of the debts, defendants used false, deceptive and misleading representations and means in violation of 15 U.S.C. §1692e.

26. Within the year next preceding filing of the complaint and during the course of collecting and attempting to collect the debt, defendants used unfair and unconscionable means in violation of 15 U.S.C. §1692f.
27. Within the year next preceding filing of the complaint and during the course of attempting to collect the debts, defendants violated 15 U.S.C. §1692g(b) by failing to cease collection of the debt.
28. Pursuant to 15 U.S.C. §1692k(a)(2)(A), each defendant should be held liable to each plaintiff for \$1,000.
29. Pursuant to 15 U.S.C. §1692k(a)(3), plaintiffs are entitled to their attorney fees and costs.

WHEREFORE, plaintiffs demand judgment in favor each plaintiff and against each defendant for \$1,000 in additional damages, their reasonable attorney fees and costs.

Dated March 15, 2006.



Danny H. Gerlt, OSB 85211
Telephone: (503) 293-3886
Attorney for Plaintiffs

STEWART SOKOL & GRAY LLC

ATTORNEYS AT LAW

John Spencer Stewart*†
Jan D. Sokol*†
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Nadya V. Martin

March 15, 2005

All Members of Oregon Bar
*Washington Bar
† District of Columbia Bar
◊ Alaska Bar
◊ Idaho Bar
‡ Nevada Bar

CERTIFIED MAIL -
RETURN RECEIPT REQUESTED

Richard E. Howe
Marian L. Howe
13900 SE Hwy 212 #48
Clackamas, OR 97015

Re: Fireside Bank V. Richard E. Howe Marian L. Howe
Our File No. 7950.350
Fireside Account No. 5047011437

Greetings:

This office has been retained to represent Fireside Bank, also known as Fireside Thrift Co. in an action for collection of amounts owed on the balance of your loan with Fireside as a result of a retail installment contract signed by you on July 13, 2002.

The total amount due on the loan, as of March 11, 2005, is \$9,857.29 (including principal, fees, and interest).

DEMAND IS HEREBY MADE for payment in full of the amount of \$9,857.29. If payment in full via certified funds is not received in this office by 5:00 p.m. ten days from the date of this letter, we will immediately file an action with the appropriate court.

THIS IS AN ATTEMPT TO COLLECT A DEBT. ANY INFORMATION OBTAINED WILL BE USED FOR THAT PURPOSE. UNLESS YOU NOTIFY US WITHIN 30 DAYS AFTER RECEIVING THIS NOTICE THAT YOU DISPUTE THE VALIDITY OF THE DEBT, OR ANY PORTION OF IT, WE WILL ASSUME THE DEBT IS VALID. IF YOU NOTIFY US, IN WRITING, WITHIN 30 DAYS AFTER RECEIPT OF THIS NOTICE THAT YOU DO DISPUTE THE DEBT OR ANY PORTION OF IT, WE WILL PROVIDE VERIFICATION BY MAILING YOU A COPY OF THE RECORDS. IF YOU SO REQUEST, IN WRITING, WITHIN 30 DAYS AFTER RECEIPT OF THIS NOTICE, WE WILL PROVIDE YOU WITH THE NAME AND ADDRESS OF THE ORIGINAL CREDITOR IF DIFFERENT FROM THE CURRENT CREDITOR.

Very truly yours,

STEWART SOKOL & GRAY, LLC

Jeffrey B. Wilkinson

JBW:kn

cc: Nicole Thorp

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